

**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**
KA 'OIHANA HO'OMOHALA PĀ'OIHANA, 'IMI WAIWAI
A HO'OMĀKA'IKA'I

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December 18, 2025

The Honorable Ronald D. Kouchi,
President and Members
of the Senate
Thirty-Third State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Nadine K. Nakamura,
Speaker and Members of the
House of Representatives
Thirty-Third State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Nakamura, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Department of Business, Economic Development, and Tourism's Report on the Small Business Regulatory Review Board, as required by Section 201M, Hawaii Revised Statutes.

In accordance with Section 93-16, Hawai'i Revised Statutes, I am also informing you that the report may be viewed electronically at:

<http://dbedt.hawaii.gov/overview/annual-reports-reports-to-the-legislature/>.

Sincerely,

James Kunane Tokioka
DBEDT Director

Enclosure

c: Legislative Reference Bureau



SMALL BUSINESS REGULATORY REVIEW BOARD

HAWAII SMALL BUSINESS REGULATORY REVIEW BOARD 2025 ANNUAL REPORT SUMMARY

- 1) Recommendations and Review of
Hawaii Administrative Rules,
Legislation,
and**
- 2) Requests from Small Business
Owners for Review of Any Rule
Adopted by a State Agency**

**In Compliance with
Chapter 201M, Hawaii Revised Statutes**

**HAWAII SMALL BUSINESS
REGULATORY REVIEW BOARD
ANNUAL REPORT SUMMARY 2025**

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SECTION I



SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)
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MESSAGE FROM THE CHAIR

Josh Green, M.D.
Governor

Sylvia Luke
Lt. Governor

James Kunane Tokioka
DBEDT Director

Dane K. Wicker
DBEDT Deputy Director



Jonathan Shick, Chair, 2025

Members

Jonathan Shick
Chairperson
O'ahu

Sanford Morioka
Vice Chairperson
O'ahu

Mary Albitz
2nd Vice Chairperson
Maui

James (Kimo) Lee
Hawai'i

Leelen Park
Hawai'i

Tessa Gomes
O'ahu

Cynthia Hobson
O'ahu

Nikki Ige
Kaua'i

Dr. Jennifer Salisbury
Maui

David Sikkink for
Director, DBEDT
Voting Ex Officio

As a small business advocate, I understand the need for the SBRRB to review Hawaii Administrative Rules for potential small business impact. The SBRRB reviewed more than 1123 Rules since it was created in 1998.

In June, the SBRRB bid fond farewells to long-time Hawaii Island-based board member Garth Yamanaka and Oahu Island representative Robert Cundiff. I want to personally thank them both for their participation and hard work over the past several years. Both served as SBRRB Chairs and brought stability, professionalism, and enthusiasm to the monthly meetings.

On a positive note, the Board welcomed two new members, Mr. Leelen Park, a resident of Hawaii Island, and Ms. Cynthia Hobson. Mr. Park brings a plethora of business expertise due to his serving as executive director for two non-profit organizations, North Kohala Community Resource Center and the Japanese Chamber of Commerce and Industry of Hawaii. Ms. Hobson resides on Oahu and is an avant-garde theorist with diverse, extensive experience in organization development, fundraising, program development, and non-profit management.

In addition, we bid a fond farewell to DBEDT employee Mr. Mark Ritchie who spent several years as the Board's Voting Ex Officio. We wish Mr. Ritchie a happy and formidable retirement. We have now welcomed Mr. David Sikkink, DBEDT's Foreign Trade Zone's Administrator, who is now filling the shoes of the Director's Ex Officio.

On behalf of the board members, I extend a big Aloha to Governor Josh Green, M.D., and Deputy Director Sylvia Luke as well as the State Legislators.

Mahalo goes out to DBEDT Director Jimmie Tokioka and Deputy Director Dane Wicker for their support of our Board. Finally, an extra big Mahalo to all those State and County agencies that came before us this year, discussing proposed and amended regulations that have potential to negatively impact small business both before and after the public hearings.

OVERVIEW

The Small Business Regulatory Review Board is pleased to provide the Annual Report Summary for the period covering January through December 2025. Pursuant to the Hawaii Small Business Regulatory Flexibility Act, Chapter 201M, Hawaii Revised Statutes, the annual summary is based on the following:

201M-5 Small business regulatory review board; powers.

(f) The board shall submit an annual report to the legislature twenty days prior to each regular session detailing any requests from small business owners for review of any rule adopted by a state agency, and any recommendations made by the board to an agency or the legislature regarding the need for a rule change or legislation. The report shall also contain a summary of the comments made by the board to agencies or the legislature regarding its review of any proposed new or amended rules.

ANNUAL SUMMARY

SMALL BUSINESS REGULATORY FLEXIBILITY ACT

The Small Business Regulatory Review Board was established on July 1, 1998, with the passage of the Small Business Regulatory Flexibility Act, pursuant to Act 168; subsequently the role of the Board was codified in Chapter 201M, Hawaii Revised Statutes (HRS), as amended.

(Appendix 1)

Statutorily, the Board is comprised of eleven members, ten current or former owners or officers of businesses from across the State, and the Director of Business, Economic Development, and Tourism (DBEDT) or the Director's designated representative who serves as an "ex officio" voting member. The Board is administratively attached to DBEDT and has responsibility for providing recommendations to State agencies on new and amended administrative rules that directly impacts small business. The Board may also consider any request from small business owners for review of any rule proposed, amended, or adopted by a state agency or for review of any legislation affecting small businesses, and to make recommendations to the agency or the legislature regarding the need for a rule change or legislation. For requests regarding county rules, the board may make recommendations to the county council or the mayor for appropriate action.

Members volunteer their time performing outreach activities to small business organizations, such as the local Chambers of Commerce, and testifying on legislation. Statutorily, the Board may also solicit testimony from the public regarding any reports submitted to the Board by State departments.

As an effective means of administrative rule review, each board member is assigned to one or more State departments as a “discussion leader” and each neighbor island member is assigned to his or her own respective island. The assignments are reviewed annually to ensure that the listing is complete and is equal among the members. Each member is responsible for the initial review of the administrative rules of these departments and counties prior to consideration by the full Board. As of December 2025, the Board is operating at near full capacity with 10 members.

ADMINISTRATIVE RULE REVIEW

From January through December 2025, a total of 35 rules, before and after public hearings, were reviewed from State and County Agencies.

Since its inception, the Board reviewed a total of 1,153 proposed new and amended HAR. (Appendix 2)

Department / County	Chapter / Section Number	Title	Proceed to Public Hearing (Pre-Public Hearing)	Proceed to Adoption (Post Public Hearing)	Other Recommendation(s)
<i>Department of Agriculture – Title 4</i>	Chapter 159	Agricultural Enterprises Lands Program Rules	X	X	
	Chapter 66	Pesticides	X		
	Chapter 8	Agricultural Loan Division	X		
<i>Department of Health – Title 11</i>	Chapter 20	Rules Relating to Public Water Systems	X		
	Chapter 156 Chapter 156.1	Communicable Diseases	X		

<i>Department of Labor & Industrial Relations – Title 12</i>	Chapter 15	Hawaii Workers’ Compensation Medical Fee Schedule (MFS) and Exhibit A (Workers’ Compensation Supplemental Medical Fee Schedule)	X	X	
	Subchapter 46	Department of Labor and Industrial – Civil Rights Commission		X	
	Subtitle 8 Part 11 Chapter 229	General, Administrative and Legal Provisions	X		
<i>Department of Land & Natural Resources – Title 13</i>	Chapter 60.4	West Hawaii Reginal Fishery Management Area, Hawaii			X
	Chapter 75	Rules Regulating the Possession and Use of Certain Fishing Gear			X
	Chapter 77.1	Aquarium Fishery Management			X
<i>Department of Business, Economic Development and Tourism – Title 15</i>	Chapter 217	Mauka Area Rules	X	X	

Department of Commerce and Consumer Affairs – Title 16	Chapter 107	Relating to Horizontal Property Regimes	X	X	
	Chapter 23	Motor Vehicle Insurance Law	X		
	Chapter 119.1 through 119.8	Relating to Condominiums	X	X	
Department of Human Services – Title 17					
Department of Taxation - 18	Chapter 235	Income Tax Law / Subchapter 3 Individual Income Tax Law	X	X	
	Chapter 235	Income Tax Law	X		
Department of Transportation – Title 19					
County of Maui	Chapter 101	Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui	X		
	Chapter 102	Rules Governing the Administrative Practices and Procedures of the Liquor Commission and Liquor Control Adjudication Board of the County of Maui	X		
City and County of Kauai	Part VI	Rules and Regulations Governing the Operations of Concessionaires at the Spouting Horn Park	X	X	
	Amendment and Replacement	Special Management Area (SMA) Rules and Regulations	X		

	of Various Chapters				
<i>City and County of Honolulu</i>	Chapter 3, Subchapter 1, Section 1-4	Use of Community Workforce Agreements in City Construction Projects	X		
	Chapter 80 and Adoption of Chapter 80.1	General Provisions	X		
	Chapter 81 and Adoption of Chapter 81.1	Liquor Commissions	X		
	Chapter 82 and Adoption of 82.1	Licenses and Permits, General Provisions	X		
	Chapter 83 and Adoption of Chapter 83.1	Procedure for Obtaining License	X		
	Chapter 84 and Adoption of 84.1	Duties of and Supervision Over Licensee	X		
	Chapter 85 and Adoption of 85.1	Revocation of License	X		
	Chapter 86 and Adoption of 86.1	General Violations and Prosecutions	X		

LEGISLATIVE ACTIVITY

During 2025, the Governor's Legislative team approved the Board's proposal to amend its statute. See "Legislative Review" at the end of this report for legislation the Board followed in 2025.

SMALL BUSINESS IMPACT STATEMENT *and* GOVERNOR'S ADMINISTRATIVE DIRECTIVE (AD) NO. 25-04

AD 25-04 updates the policy and procedures by which State departments and agencies request Governor's approval for a public hearing of any proposed adoption, amendment, or repeal of administrative rules developed under Chapter 91, HRS. (Appendix 3). The SBRRB is very pleased to announce the AD's update as it has worked very hard with the Governor's policy team over the past two to three years for it to come to fruition.

Under Section 201M-2, HRS, State agencies wanting to adopt new or modified administrative rules that have an impact on small business are required to submit to the Board a small business impact statement showing the economic impact on those businesses.

CHAIRPERSON / BOARD MEMBERS

Under Section 201M-5 (c), "a majority of the board shall elect the chairperson. The chairperson shall serve a term of not more than one year, unless removed earlier by a two-thirds vote of all members to which the board is entitled." The following elections were held at the June 2025 meeting:

- Chair – Jonathan Shick
- Vice Chair – Sanford Morioka
- Second Vice Chair – Mary Albitz

The Board member nomination process, under Section 201M-5, HRS, states, “the Board shall consist of eleven members, who shall be appointed by the governor pursuant to section 26-34; provided that:

(1) Three members shall be appointed from a list of nominees submitted by the president of the senate;

(2) Three members shall be appointed from a list of nominees submitted by the speaker of the house of representatives;

(3) Two members shall be appointed from a list of nominees submitted by the board;

(4) Two members shall be appointed by the governor;

(5) The director of business, economic development, and tourism, or the director’s designated representative, shall serve as an ex officio voting member of the board;

(6) The appointments shall reflect representation of a variety of businesses in the State;

(7) No more than two members shall be representatives from the same type of business; and

(8) There shall be at least one representative from each county.”

In addition, nominations shall be solicited from small business organizations, state and county chambers of commerce and other interested business and trade organizations. Except for the ex officio member, all members are either a current or former owner or officer of a business and shall not be an officer or employee of the federal, state, or county government.”

In June 2025, the Board said “Aloha” to board members Messrs. Garth Yamanaka and Robert Cundiff. In addition, long-time DBEDT employee, Mr. Mark Ritchie, who was delegated by Director Tokioka as the Board’s ex officio member, retired. We are pleased to have DBEDT’s Foreign Trade Zone’s Administrator Mr. David Sikkink in place of Mr. Ritchie. At the end of December 2025, the Board was comprised of the following ten members:

- 1) Mary Albitz, Island Art Party, County of Maui
- 2) James (Kimo) Lee, W. H. Shipman, Ltd., Hawaii County
- 3) Jonathan Shick, Pono Consulting Group, LLD., City and County of Honolulu
- 4) Sanford Morioka, Edward Enterprises, Inc., City and County of Honolulu
- 5) Tessa Gomes, Fred and Kate Events, City and County of Honolulu
- 6) Nikki Ige, Kauai Federal Credit Union, County of Kauai
- 7) Dr. Jennifer Salisbury, Valley Isle Enterprises, Ltd., County of Maui
- 8) Leelen Park, Japanese Chamber of Commerce and Industry of Hawai'i County of Hawai'i
- 9) David Sikkink, Hawai'i Foreign Trade Zone, DBEDT, Voting Ex Officio Member
- 10) Cynthia Hobson, Kingdom Business Development Services, City and County of Honolulu

ACTIVITIES, PROJECTS and OUTREACH

The following activities and projects were accomplished in 2025:

- **Newsletter** – With the professional assistance of Becker Communications, the Board continues to send out monthly e-Newsletters to small business organizations, chambers of commerce, trade organizations and State legislators;
- **Social Media** – In 2025, the Board regularly sent out notices, with guidance from Becker Communications, on Facebook, Twitter, and Instagram to enhance its outreach efforts. As of the end of 2025, the Board can proudly boast 7 Friends on Facebook, has 129 followers on Twitter, and 112 followers on Instagram. Becker Communications has assisted the Board with its social media messages since September 2023. Becker and the Board's staff have quarterly

meetings where Becker provides suggestions for assisting the Board with future outreach efforts, the monthly newsletter, and social media.

- **General Outreach**

- 1) In 2025, DBEDT submitted a press release announcing the recent election of new board officers, Jonathan Shick, Chair; Sanford Morioka, Vice Chair and Mary Albitz, Second Vice Chair.
- 2) The SBRRB can now be reached on DCCA’s website under “Center for Business and Leadership.” Go to <https://cca.hawaii.gov/bac/training-opportunities-from-other-organizations/>

- 3) **Specific Outreach**

During 2025, in addition to mailings, outreach efforts were performed by staff and board members that included the following:

- 1) 2025 Women’s Legislative Caucus



- 2) Hawaii Chamber of Commerce
- 3) Maui Chamber of Commerce
- 4) Kauai Chamber of Commerce

5) Hawaii Economic Association



6) Kapolei Chamber of Commerce



7) 4th Annual Hawaii AI & Cloud Innovation Summit



8) West Oahu Business Panel



9) 2025 AIA Maui Vendor Expo



10) Grassroot Institute of Hawaii

SECTION II

LEGISLATIVE REVIEW

The following measures were introduced during the 2024 legislative session.

1. **Senate Bill 1343 – Relating to the Small Business Regulatory Review Board**

Background: This measure, companion bill to House Bill 1024, amends the quorum requirements to do business and validates acts of the Small Business Regulatory Review Board.

Recommendation: The Board supported this measure.

Result: This bill was introduced in January and became law under Act 75, SLH on May 19, 2025.

2. **House Bill 1024 - Relating to the Small Business Regulatory Review Board**

Background: This measure, companion bill to Senate Bill 1343, amends the quorum requirements to do business and validates acts of the Small Business Regulatory Review Board.

Recommendation: The Board supported this measure.

Result: The bill was introduced in January and was deferred due to the introduction of above-captioned bill, Senate Bill 1343, Relating to the Small Business Regulatory Review Board

3. **House Bill 1406 – Relating to Government Procedures:**

Background: This measure establishes the SPEED Task Force to identify actions taken, challenges encountered and legislative measures necessary to facilitate, expediate, and coordinate state and intergovernmental development permit processes; and appropriates funds.

Recommendation: The Board followed this measure throughout the 2025 legislative session.

Result: This measure became law on May 29, 2025 under Act 133, Sessions Law Hawaii 2025.

4. GM 513 – Submitting for consideration and confirmation to the Small Business

Regulatory Review Board, Gubernatorial Nominee, James Lee, for a term to expire 6-30-2028

Background: This measure was introduced in January 2025.

Recommendation: The Board supported this measure.

Result: The measure was confirmed on April 10, 2025.

5. GM 514 - Submitting for consideration and confirmation to the Small Business

Regulatory Review Board, Gubernatorial Nominee, Jennifer Salisbury, for a term to expire 6-30-2028

Background: The measure was introduced in January 2025.

Recommendation: The Board supported this measure.

Result: The measure was confirmed in April 2025.

6. GM 617 – Submitting for consideration and confirmation to the Small Business

Regulatory Review Board, Gubernatorial Nominee, Nikki Ige, for a term to expire 6-30-2028.

Background: This measure was introduced in January 2025.

Recommendation: The Board supported this measure.

Result: The measure was confirmed in April 2025.

Appendix

1. Chapter 201M, Hawaii Revised Statutes
2. Administrative Rules Reviewed Matrix
3. Administrative Directive No. 25-04

1. Chapter 201M, Hawaii Revised Statutes

CHAPTER 201M

SMALL BUSINESS REGULATORY FLEXIBILITY ACT

Section

201M-1 Definitions

201M-2 Determination of small business impact; small business impact statement

201M-3 Small business statement after public hearing

201M-4 Advisory committee on small business; consultation process for proposed rules

201M-5 Small business regulatory review board; powers

201M-6 Petition for regulatory review

201M-7 Periodic review; evaluation report

201M-8 Waiver or reduction of penalties

201M-9 Executive order

§201M-1 Definitions. As used in this chapter, unless the context clearly requires otherwise:

"Advisory committee" means an advisory committee on small business as established in section 201M-4.

"Affected small businesses" or "affects small business" means any potential or actual requirement imposed upon a small business through an agency's proposed or adopted rule that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business.

"Agency" means each state or county board, commission, department, or officer authorized by law to make rules, except those in the legislative or judicial branches.

"Board" means the small business regulatory review board.

"Rule" shall have the same meaning as in section 91-1.

"Small business" means a for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that:

- (1) Is domiciled and authorized to do business in Hawaii;
- (2) Is independently owned and operated; and
- (3) Employs fewer than one hundred full-time or part-time employees in Hawaii. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §§2, 5; am L 2007, c 217, §2]

§201M-2 Determination of small business impact; small business impact statement. (a) Prior to submitting proposed rules for adoption, amendment, or repeal under section 91-3, the agency shall determine whether the proposed rules affect small business, and if so, the availability and practicability of less restrictive alternatives that could be implemented. This section shall not apply to emergency rulemaking.

- (b) If the proposed rules affect small business, the agency shall consider creative, innovative, or flexible methods of compliance for small businesses and prepare a small business impact statement to be submitted with the proposed rules to the departmental advisory committee on small business and the board when the rules are essentially complete and before the rules are submitted to the governor for approval for public hearing. The statement shall provide a reasonable determination of the following:
- (1) The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules;
 - (2) Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected;
 - (3) In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance;
 - (4) The probable monetary costs and benefits to the implementing agency and other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used;
 - (5) The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or any other mitigating techniques;
 - (6) How the agency involved small business in the development of the proposed rules; and
 - (7) Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

(c) When a proposed rule includes provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, the agency shall, in addition to the information required by subsection (b), include in the small business impact statement information comparing the costs and benefits of the standard set by the proposed rule to the costs and benefits of the standard under the comparable or

related federal, state or county law. The agency shall also include an explanation of its decision to impose the higher standard. The agency's comparison and justification shall include:

- (1) A description of the public purposes to be served by imposing the standard under the proposed rule;
- (2) The text of the related federal, state, or county law, including information about the purposes and applicability of the law;
- (3) A comparison between the proposed rule and the related federal, state, or county law, including a comparison of their purposes and of the standards and their application and administration;
- (4) A comparison of the monetary costs and benefits to the implementing agency and other agencies directly affected, of imposing the proposed standard, with the costs and benefits of imposing or deferring to the related federal, state or county standard, as well as a description of the manner in which any additional fees derived from imposition of the proposed standard are to be used; and
- (5) A comparison of the adverse effects on small businesses of the standard imposed by the proposed rule, with the adverse effects on small business of the related federal, state, or county standard.

(d) This chapter shall not apply to proposed rules adopted by an agency to implement a statute or ordinance that does not require an agency to interpret or describe the requirements of the statute or ordinance, such as federally-mandated regulations that afford the agency no discretion to consider less restrictive alternatives. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5; am L 2007, c 217, §3; am L 2008, c230, §3]

§201M-3 Small business statement after public hearing. (a) For any proposed rule that affects small business, the agency shall also submit a small business statement to the small business regulatory review board and the departmental advisory committee on small business after the public hearing is held. This section shall not apply to emergency rules. The small business statement required by this section shall provide the following information:

- (1) A description of how opinions or comments from affected small business were solicited, a summary of the public and small business comments, and a summary of the agency's response to those comments;
- (2) The number of persons who:
 - (A) Attended the public hearing;
 - (B) Testified at the hearing; and

(C) Submitted written comments; and

- (3) If there was a request to change the proposed rule at the hearing in a way that affected small business, a statement of the reasons for adopting the proposed rule, the reason why a requested change was not made, and the problems or negative result the change would provide if adopted.

(b) If the small business regulatory review board finds that a statement provided pursuant to subsection (a) (3):

- (1) Indicates inconsistency with any of the agency's determinations under section 201M-2(b); or

(2) Does not address the concerns of public input, the board with good cause may request a written response from the agency explaining the rationale used to deny the public concerns within ten working days of receipt of the small business statement after public hearing. The agency shall respond in writing to the board's concerns within ten working days.

(c) The written response from an agency required in subsection (b), at a minimum, shall:

- (1) Specifically address each issue and concern raised in the board's request for a written response; and
- (2) Affirmatively state that the agency has considered all written and oral testimony received at the agency's public hearing and has addressed all issues or concerns raised in the written or oral testimony. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5; am L 2012, c 241, §2]

[§201M-4] Advisory committee on small business; consultation process for proposed rules. (a) There may be established within and administratively attached to every department of the State or county whose rules affect small business activities, an advisory committee on small business. The advisory committee shall consist of three or more odd number of members appointed by the department and may advise more than one department. The department shall have the authority to appoint members to the advisory committee and to fill any vacancies. The members shall serve on a volunteer basis and have experience or knowledge of the effect of regulation by those departments on the formation, operation, or expansion of a small business. No person shall serve on the small business regulatory review board and an advisory committee on small business concurrently. The advisory committees shall not be subject to the requirements of chapter 91.

(b) When the agency is proposing rules that affect small business, the agency may consult with the administratively attached departmental advisory committee on small business regarding any matter related to the proposed rules prior to

complying with the rulemaking requirements provided in chapter 91. Each agency shall develop its own internal management procedures for soliciting comments during the drafting of proposed rules from affected small businesses. The agency may develop creative procedures for the solicitation of comments from affected small businesses during the drafting or development of proposed rules.

(c) If necessary, any group or members of affected small businesses may also be consulted by the agency to formulate the relevant language, develop criteria, and provide any other expertise to ensure that the proposed rules will be drafted in a manner that will protect the public health, welfare, and safety without placing an undue and significant burden upon small business. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5]

§201M-5 Small business regulatory review board; powers. (a) There shall be established within the department of business, economic development, and tourism, for administrative purposes, a small business regulatory review board to review any proposed new or amended rule. If the board determines that a proposed rule will not have a significant economic impact on a substantial number of small businesses, the board shall submit a statement to that effect to the agency that sets forth the reason for the board's decision. If the board determines that the proposed rule will have a significant economic impact on a substantial number of small businesses, the board may submit to the agency suggested changes in the proposed rule to minimize the economic impact of the proposed rule, or may recommend the withdrawal of the proposed rule. The board may also consider any request from small business owners for review of any rule proposed, amended or adopted by a state agency or for review of any legislation affecting small businesses, and to make recommendations to the agency or the legislature regarding the need for a rule change or legislation. For requests regarding county rules, the board may make recommendations to the county council or the mayor for appropriate action.

(b) The board shall consist of eleven members, who shall be appointed by the governor pursuant to section 26-34; provided that:

- (1) Three members shall be appointed from a list of nominees submitted by the president of the senate;
- (2) Three members shall be appointed from a list of nominees submitted by the speaker of the house of representatives;
- (3) Two members shall be appointed from a list of nominees submitted by the board;
- (4) Two members shall be appointed by the governor;

- (5) The director of business, economic development, and tourism, or the director's designated representative, shall serve as an ex officio voting members of the board;
- (6) The appointments shall reflect representation of a variety of businesses in the State;
- (6) No more than two members shall be representative from the same type of business; and
- (8) There shall be at least one representative from each county. For purposes of paragraphs (1) and (2), nominations shall be solicited from small business organizations, state and county chambers of commerce, and other interested business organizations.

(c) **Except for the ex officio member**, all members of the board shall be either a current or former owner or officer of a business and shall not be an officer or employee of the federal, state, or county government. A majority of the board shall elect the chairperson. The chairperson shall serve a term of not more than one year, unless removed earlier by a two-thirds vote of all members to which the board is entitled.

(d) A majority of all the members currently appointed to the small business regulatory review board shall constitute a quorum to do business, and the concurrence of a majority of all the members currently appointed to the small business regulatory review board shall be necessary to make any action of the board valid.

(e) In addition to any other powers provided by this chapter, the board may:

- (1) Adopt any rules necessary to implement this chapter;
- (2) Organize and hold conferences on problems affecting small business; and
- (3) Do any and all things necessary to effectuate the purposes of this chapter.

(f) The board shall submit an annual report to the legislature twenty days prior to each regular session detailing any requests from small business owners for review of any rule proposed, amended, or adopted by a state agency or for review of any legislation affecting small businesses, and any recommendations made by the board to an agency or the legislature regarding the need for a rule change or legislation. The report shall also contain a summary of the comments made by the board to agencies regarding its review of proposed new or amended rules. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §§3, 5; am L 2007, c 217, §4; am L 2012, c 241, §3]

§201M-6 Petition for regulatory review. (a) In addition to the basis for filing a petition provided in section 91-6, any

affected small business may file a written petition with the agency that has adopted the rules objecting to all or part of any rule affecting small business on any of the following grounds:

- (1) The actual effect on small business was not reflected in, or significantly exceeded, the small business impact statement submitted prior to the adoption of the rules;
- (2) The small business impact statement did not consider new or significant economic information that reveals an undue impact on small business;
- (3) These impacts were not previously considered at the public hearing on the rules;
- (4) The rules create an undue barrier to the formation, operation, and expansion of small businesses in a manner that significantly outweighs its benefit to the public;
- (5) The rules duplicate, overlap, or conflict with rules adopted by another agency or violate the substantive authority under which the rules were adopted; or
- (6) The technology, economic conditions, or other relevant factors justifying the purpose for the rules have changed or no longer exist.

(b) Upon submission of the petition, the agency shall forward a copy of the petition to the board, as notification of a petition filed under this chapter. The agency shall promptly consider the petition and may seek advice and counsel regarding the petition from the appropriate departmental advisory committee on small business. Within sixty days after the submission of the petition, the agency shall determine whether the impact statement or the public hearing addressed the actual and significant impact on small business. The agency shall submit a written response of the agency's determination to the small business review board within sixty days after receipt of the petition. If the agency determines that the petition merits the adoption, amendment, or repeal of a rule, it may initiate proceedings in accordance with section 91-3.

(c) If the agency determines that the petition does not merit the adoption, amendment, or repeal of any rule, any affected small business may seek a review of the decision by the board. The board shall promptly convene a meeting pursuant to chapter 92 for the purpose of soliciting testimony that will assist in its determination whether to recommend that the agency initiate proceedings in accordance with section 91-3. The board may base its recommendation on any of the following reasons:

- (1) The actual effect on small business was not reflected in, or significantly exceeded, the impact statement submitted prior to the adoption of the rules;

- (2) The impact statement did not consider new or significant economic information that reveals an undue impact on small business;
- (3) These impacts were not previously considered at the public hearing on the rules;
- (4) The rules create an undue barrier to the formation, operation, and expansion of small businesses in the State in a manner that significantly outweighs its benefit to the public;
- (5) The rules duplicate, overlap, or conflict with rules adopted by another agency or violate the substantive authority under which the rules were adopted; or
- (6) The technology, economic conditions, or other relevant factors justifying the purpose for the rules have changed or no longer exist.

(d) If the board recommends that an agency initiate rulemaking proceedings for any reason provided in subsection (c), it shall submit to the legislature an evaluation report and the agency's response as provided in subsection (b). The legislature may subsequently take any action in response to the evaluation report and the agency's response as it finds appropriate.

(e) If the board does not recommend that an agency initiate rulemaking proceedings, the board shall notify the small business of its decision and inform the small business that the small business may submit a complaint to the ombudsman pursuant to chapter 96 regarding the decision of the agency or board.

(f) Nothing in this section shall entitle an affected small business to a contested case hearing under chapter 91. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5; am L 2007, c 217, §5]

§201M-7 Periodic review; evaluation report. (a) Each agency having rules that affect small business shall submit to the board by June 30 of each odd-numbered year, a list of those rules and a report describing the specific public purpose or interest for adopting the respective rules that affect small business and any other reasons to justify continue implementation of the rules; provided that, by June 30 of each year, each agency shall submit to the board a list of any rules to be amended or repealed, based upon any new, amended, or repealed statute that impacts small business.

(b) The board shall provide to the head of each agency a list of any rules adopted by the agency that affect small business and have generated complaints or concerns, including any rules that the board determines may duplicate, overlap, or conflict with other rules, or exceed statutory

authority. Within forty-five days after being notified by the board of the list, the agency shall submit a written report to the board in response to the complaints or concerns. The agency shall also state whether the agency has considered the continued need for the rules and the degree to which technology, economic conditions, and other relevant factors may have diminished or eliminated the need for maintaining the rules.

(c) The board may solicit testimony from the public regarding any report submitted by the agency under this section at a public meeting held pursuant to chapter 92. Upon consideration of any report submitted by an agency under this section and any public testimony, the board shall submit an evaluation report to the legislature each even-numbered year. The evaluation report shall include an assessment as to whether the public interest significantly outweighs a rule's effect on small business and any legislative proposal to eliminate or reduce the effect on small business. The legislature may take any action in response to the report as it finds appropriate. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5; am L 2007, c 217, §6; am L 2012, c 241, §4]

§201M-8 Waiver or reduction of penalties. (a) Except where a penalty or fine is assessed pursuant to a program approved, authorized, or delegated under a federal law, any agency authorized to assess civil penalties or fines upon a small business shall waive or reduce any penalty or fine as allowed by federal or state law for a violation of any statute, ordinance, or rules by a small business under the following conditions:

- (1) The small business corrects the violation within a minimum of thirty days after receipt of a notice of violation or citation; and
 - (2) The violation was unintentional or the result of excusable neglect; or
 - (3) The violation was the result of an excusable misunderstanding of an agency's interpretation of a rule.
- (b) Subsection (a) shall not apply:
- (1) When a small business fails to exercise good faith in complying with the statute or rules;
 - (2) When a violation involves willful or criminal conduct;
 - (3) When a violation results in serious health and safety impacts;
 - (4) To violations of chapters 6E, 180, 180C, 181, 182, 183, 183C, 183D, 186, 187A, 188, 188F, 189, 190, 190D, 195, 195D, 195F, 205, 205A, 340A, 340E, 341, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, and 342P;

- (5) To violations of sections 200-9(b) and (c), 200-24(4), 200-37, and 200-38; or
 - (6) To violations of administrative rules promulgated pursuant to section 200-4(6); except for rules pertaining to matters listed in section 200-4(6)(A), (B), (C), and (D).
- (c) An agency may adopt rules to implement the requirements of this section. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5; am L 2004, c 206, §1]

[\$201M-9] Executive order. The governor may execute any executive order, memorandum, or directive necessary to implement any provision of this chapter. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5]

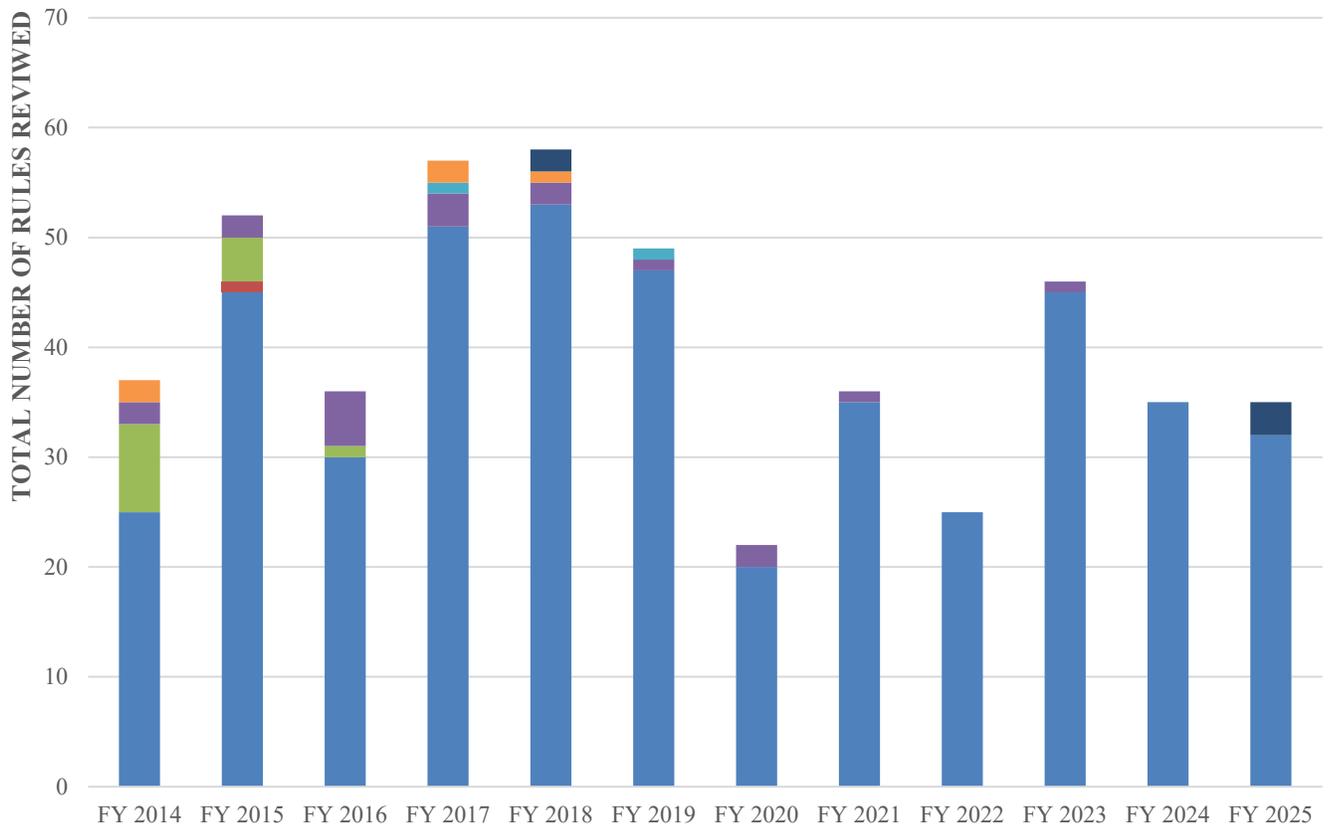
2. Administrative Rule Review

Administrative Rule Review – Annual Report 2025

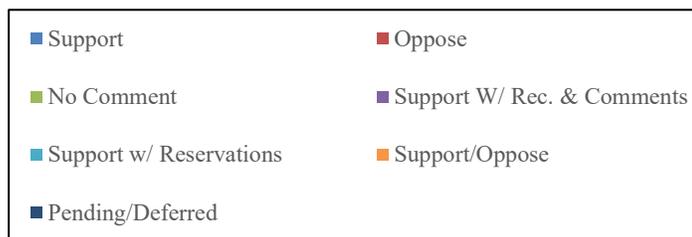
Month/Year	Supported (1)	Opposed (2)	No Comment/ No Action (3)	Supported W/ Rec. & Comments (4)	Supported w/ Reservations (5)	Supported/ Opposed (6)	Pending/ Deferred (7)
Jan-25	2						
Feb-25	0						
Mar-25	1						
Apr-25	1						
May-25	1						
Jun-25	1						
Jul-25	3						
Aug-25	4						
Sep-25	4						
Oct-25	4						
Nov-25	10						3
Dec-25	1						
Total Calendar Year 2025	32						3
Total Past Years	913	13	81	48	21	12	0
Total	945	13	81	48	21	12	3
Total HAR Reviewed Since Inception	1123						

- 1) Unanimous support of HAR
- 2) Opposed HAR
- 3) Either no comment or no action taken on HAR
- 4) Supported HAR with recommendations and/or comments
- 5) Supported HAR with Reservations
- 6) Partially opposed but supported HAR
- 7) Deferred action

Administrative Rule Review Matrix



FISCAL YEAR



3. Administrative Directive No. 25-04



EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

OCT 16 2025

ADMINISTRATIVE DIRECTIVE NO. 25-04

TO: All Department and Agency Heads

SUBJECT: Policy and Procedure for the Adoption, Amendment, and Repeal of
Hawai'i Administrative Rules (HAR)

Effective November 1, 2025, this administrative directive establishes the policy and procedure by which State departments and agencies are to request executive approval of the proposed adoption, amendment, or repeal of administrative rules. This administrative directive supersedes Administrative Directive No. 09-01, *Policy and Procedure for the Adoption, Amendment, or Repeal of Administrative Rules*, dated October 29, 2009, and any other policies or procedures for the adoption, amendment, or repeal of administrative rules in operation since then, including the unissued Administrative Directive No. 18-02, *Policy and Procedure for the Adoption, Amendment, or Repeal of Hawai'i Administrative Rules*, dated January 1, 2018.

Legal References

1. Chapter 91, Hawai'i Revised Statutes (HRS), the Hawai'i Administrative Procedure Act, specifically section 91-3, HRS, provides the legal steps for the administrative rules process, including detailed procedures. Note that section 91-3(d), requires that "[t]he adoption, amendment, or repeal of any rule by any state agency shall be subject to the approval of the governor."
2. Chapter 201M, HRS, the Small Business Regulatory Flexibility Act, specifically section 201M-2(b), HRS, requires that "[i]f the proposed rules affect small business, the agency shall consider creative, innovative, or flexible methods or compliance for small business and prepare a small business impact statement to be submitted with the proposed rules to the departmental advisory committee on small business and the [Small Business Regulatory Review] board when the rules are essentially

complete and before the rules are submitted to the governor for approval for public hearing. Chapter 201M does not apply to emergency rulemaking or rules adopted to comply with a federal requirement.

Policy

Submission Platform

All requests to the Office of the Governor regarding Hawai'i Administrative Rules must be submitted through the Hawai'i Administrative Rules Processing Site (HARPS):

<https://hawaiiomt.sharepoint.com/sites/gov/adminrules/>

Communication

For questions on the submission process, reach out to gov.har@hawaii.gov or contact your respective GOV/Policy point-of-contact directly.

1. Prior to Public Hearing

- A. Attorney General.** The department or agency shall obtain approval from the Attorney General “as to form.”
- B. Small Business Regulatory Review Board (SBRRB).** Before submitting any proposed new or amended rules to the Governor for approval for public hearing, the agency shall determine whether the proposed rules affect small business by asking the SBRRB to review the rules, pursuant to section 201M-5, HRS.
 - (1) If the SBRRB determines that a proposed rule will **not** have a significant economic impact on a substantial number of small businesses, the SBRRB shall submit a statement to that effect to the agency that sets forth the reason for its decision, and the agency may proceed with its rulemaking.]
 - (2) If the SBRRB determines that a proposed rule **will** have a significant economic impact on a substantial number of small businesses, the agency shall complete the steps specified in section 201M-2, HRS, including:
 - (a) Preparing a small business impact statement to be submitted with the proposed rules to the SBRRB; and

- (b) Consulting with the administratively attached departmental advisory committee on small business (section 201M-4), if one has been established.

The agency may also consider the SBRRB's suggested changes to the proposed rule to minimize the economic impact, if the SBRRB has provided such comments.

- C. Formatting.** Ensure formatting of rules complies with instructions in the *Hawai'i Administrative Rules Drafting Manual*, 3rd edition, June 2016, Legislative Reference Bureau (LRB), State of Hawai'i. A link to the manual can be found at https://lrb.hawaii.gov/wp-content/uploads/2016_HawaiiAdministrativeRulesDraftingManual.pdf

Note: The LRB has offered and continues to provide the free service of reviewing new rules or changes to existing rules for compliance with the Hawai'i Administrative Rules format.

The *Hawai'i Administrative Rules Drafting Manual*, at pp. 313–322, provides Suggestions for Preparation of Rules, which serve as a practical checklist for many of the essential steps involved in drafting and finalizing administrative rules.

2. Public Hearing Request

To conduct a public hearing, a department or agency must make a request to the Governor by uploading the following items into HARPS:

- A. Proposed Rules, BOTH Standard and Ramseyer.**
- B. SBRRB Impact Statement and Comments (or Statement that there is no Small Business Impact).**
- C. Memo to the Governor.** Please include the following information:
- (1) Summary of proposed rule or rule change:
- Why are the rules being adopted, amended, or repealed?
 - What problem do the rules mean to solve?

- (2) Impact of Rules:
 - How do the rules address the problem?
 - Who are the stakeholders, both positive and negative?
 - What are potential problems with the rules?
 - What is the fiscal impact of the rules?
 - What is the economic impact to the State?
- (3) Consequences if the proposed rule or rule change is not made:
 - What are the consequences if the rules are not adopted, amended, or repealed?
- (4) All changes made to existing rules must be listed. (Not applicable for new chapters of rules—that is covered in “(1)” above.)
 - Include a detailed list of all changes, an explanation for why the change is being made, and the corresponding sections.
- (5) If these rules are time sensitive or require an expedited review, please provide an explanation.

BUF Review. The Department of Budget and Finance (BUF) will receive electronic notification upon submittal of a public hearing request and will have an opportunity to submit their comments and concerns through HARPS.

- BUF is required to provide a response on the proposed or amended rule’s fiscal impacts.
- BUF’s comments are reviewed by GOV/Policy before approval for public hearing.

3. Public Hearings

Upon approval of a public hearing request, the department must:

- (1) Ensure the public hearing notice is in accordance with chapter 91-3, HRS;
- (2) Give at least thirty days’ notice of the public hearing date;
- (3) Enter all public hearing dates, times, and locations into HARPS; and
- (4) Provide a public hearing summary (see below).

4. Final Rule

In the Request for Approval of Final Rule, the department or agency shall provide the following in HARPS:

A. Public Hearing Summary

- (1) What recommendations and concerns were brought up by public testifiers?
- (2) Were changes incorporated?
- (3) Why or why not?

B. Final Rule Changes

- (1) Changes in Final Rule:
 - What changes were made in the Final Rule?
 - Why were the changes made?
- (2) Other:
 - Describe how the department or agency has worked with stakeholders to gain support for the rule.
 - Have potential problems been addressed? Do the same problems exist with the Final Rule?
 - Does Office of the Governor staff need to meet with any people or organizations before the Governor signs the Final Rule?

For final rule approval, the following items must be uploaded and completed in HARPS:

- Proposed Rules in Standard and Ramseyer formats;
- SBRRB Impact Statement and Comments;
- BUF review;
- Public hearing information;
- Public hearing summary;
- Final Rule changes;
- Final Rules in Standard and Ramseyer formats; and
- Updated Memorandum to the Governor (see below).

5. Filing of Final Rule

Upon filing of Final Rule through HARPS, the department or agency shall submit the following **hard copies** to the Office of the Governor, Attn: GOV/Policy, State Capitol, Room 415:

- A. Memorandum to the Governor**, initiated by the department or agency head, that sets forth the changes.
 - (1) Include all information required in the memo referenced in section 2.C., incorporating any applicable updates.
 - (2) Wet signature by department or agency heads is preferred; however, department or agency heads may e-sign their documents as long as the signature is clear and is easily identifiable as belonging to the person signing.

- B. Three sets in hard copy of the proposed rules in Standard format.**
 - (1) Each set of the Standard format shall be signed by the department or agency head, and deputy attorney general as to form.
 - (2) Please ensure all adoption dates of rules are filled in on the first and last page.
 - (3) There shall be a blank signature line on each of the three sets of the Final Rules for Governor's signature, a blank date line for Governor, and a blank filing date line to be filled in by the Office of the Lieutenant Governor.

- C. One set in hard copy of the proposed rules in Ramseyer format.**

Note: Please do **not** send Final Rule Approvals to transmit.docs@hawaii.gov.

Mahalo,



Josh Green, M.D.

Governor, State of Hawai'i



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